

UNITED STATES DISTRICT COURT
DISTRICT OF NEW MEXICO

CLERK'S MINUTES

Before Special Master Vickie L. Gabin

Case No.: 69cv07941-BB-ACE

Date: May 8th, 2006

Title: State of New Mexico, et al. v. Aragon, et al.

Courtroom Clerk: J. McCabe

Court Reporter: none

Court in Session: 9:36 a.m.

Court in Recess: 10:15 a.m.

Type of Proceeding: Status Conference for Sections 3, 5, and 7

Attorneys: See attached

Proceedings:

This was a status conference set by order no. 8214 to discuss the following:

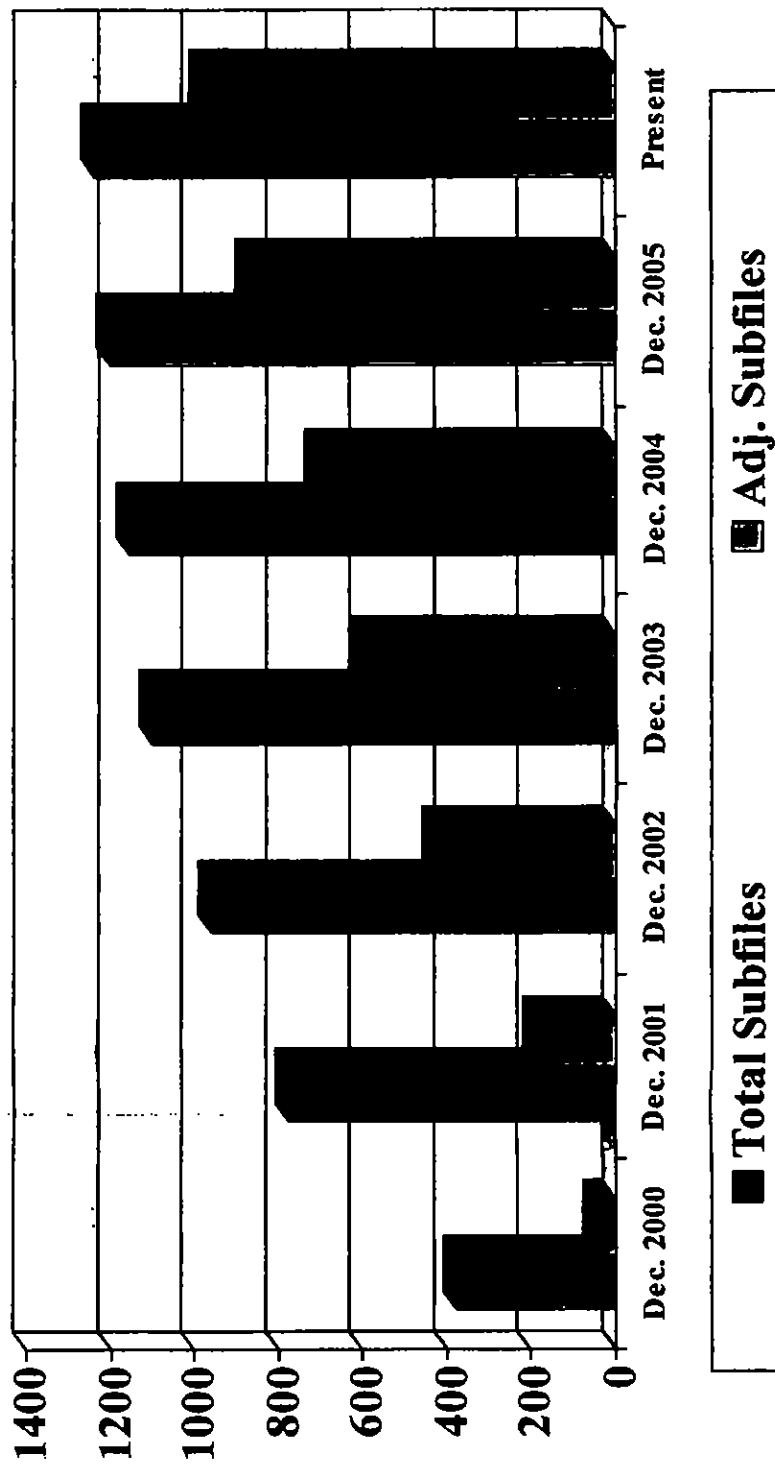
- 1) **The general status of the adjudication of Sections 3, 5, and 7.** Mr. Newville (EN) reports on the general status for the three sections. The State is in the process of wrapping up loose ends on subfiles, serving people, and making contact with claimants who have not responded yet. The majority of individual subfiles open are in Section 7, there a few remaining in Section 3, and Section 5 should be complete by the year-end. (See attached chart for a detailed summary). The upcoming plans are for depositions and historical work in Tierra Amarilla (TA). There are no scheduled field sessions for this summer.
- 2) **The status of resolution of the Suazo and Ranchitos ditch issues.** EN reports the mapping has been completed. Of the five proposed orders two have been signed and approved. The Consent Orders have a priority date of 1735. Mr. Waltz (FW) appreciates the facilitation which occurred with the OSE HSR staff, this process could serve as a model for future resolutions. Within the month FW will move to re-enter the priority dates for the five consent orders. Due to the upcoming drought the priority dates will be important.
- 3) **The status of federal non-Indian, non-Wild and Scenic River claims in Section 5, and any necessary amendments to the March 1, 2005, Scheduling Order, as amended (Nos. 7770 and 8029).** SEE BELOW (one discussion)
- 4) **The status of the quantification of the United States of America's claims under the Wild and Scenic Rivers Act, pursuant to the Initial Scheduling and Pretrial Order for the Adjudication of Wild and Scenic River Claims entered July 18, 2005 (Docket No. 7952).** Ms. Singer (AS) and Mr. Gehlert (DG) are in correspondence over existing claims, new claims, and new errors. There is not an

agreement on how to address these claims yet. The priority is to complete Section 5 first then move to then Section 3 (per EN there is a scheduling order for these claims). AS will submit a status report to the Special Master (SM) on the Wild and Scenic Claims and on the stock water claims. MH requests the State and the U.S. notify the Acequia association when filed work will be conducted so the acequia association can have their technical person present too. DG agreed to MH's request.

- 5) **The status of an agreement on the consumptive irrigation requirements for Section 5, and the necessity, if any, for a scheduling order supplementing the Order entered February 15, 2005 (No. 7761).** Ms. Humphrey (MH) reports that she and the state are in negotiations with the State on one CIR element. EN says the Sec. 5 determination is an acceptable quantity amount. He has requested to do a survey to complete the fallow issue in the adjudication. This may take 2-3 months but it is a priority. MH is in agreement with this time frame. MH reports on Gallina (Section 5), there are 2 more Consent Orders on customs and CIR (if they come to an agreement), then the parties can move into *inter se*. FW comments that at the last status conference in TA, 2-14-06, he alerted the Court about the CIR issue. While he does not want to interrupt the process for the entire basin, any fallow land would have a direct impact on his clients. FW suggests the State and MH be open to a meeting to discuss this issue. Mr. Utton (JU), representing the Acequias Norteflas, does not share the same concern as FW but he does have a general concern of how CIR will be used throughout the basin. He has agreed with the modified the Blaney-Criddle method.
- 6) **The status of work completed under the March 14, 2005, Procedural Order for Completion of Primary Subfile Work and Resolution of Errors and Omissions for Section 2 (No. 7785) and the necessity for further procedural and scheduling orders.** MH continues to operate under the same Scheduling Order for Errors & Omissions and their data is not in order to request further procedural or scheduling orders.
- 7) **The status of disputed Subfile No. CHRU-003-0001 (water rights claimants Peralta and Vogt).** Mr. Padilla reports the dispute has been settled and he will work with the State on producing an accurate map and consent decree. Mr. Padilla expects to have a proposed order ready in 60 days or so. Mr. Padilla is excused from the Status Conference. Later in the status conference his co-counsel, Mr. Friedman arrives and reports he will file a joint motion for extension of time so everything will be ready for July 7th. He also adds the State's deadline to request a hearing is September 12, 2006. The need for the extension of time is to determine how many acres each party will agree to.
- 8) **Other relevant matters, including any questions regarding the pending litigation of the water rights claims associated with Subfile Nos. CHTA-001-0001,-0002,-0003; CHTA-002-0001,-0002, and -0003; and CHTA-003-0001.** EN reports that the historian work may be significant. EN will make a motion to set a general status conference in August to discuss the situation.
- 9) **Discussion of streamlining service in this adjudication and ensuring that counsel are notified of appropriate service requirements.** The Special Master agreed to write a letter to counsel reminding them of existing service requirements and of the electronic options.

10) Items which should be included in the next status conference set for Tuesday, August 8, 2006, in Chama New Mexico area. 1) service for *Pro Se*'s in the electronic filing system, 2) Section 7, Jicarilla and Willow Creek Ranch claims. This is a groundwater claim, not a surface water claim, and outside the 2002 procedural order

Upper Rio Chama (Sect. 3, 5 & 7) Subfiles to Date



CHAMA TOTALS 1/1/06 to 5/1/06			
<u>SECTION</u>	<u>TOTAL SUBFILES</u>	<u>ORDERS SENT</u>	<u>ORDERS APPROVED</u>
			<u>OPEN SUBFILES</u>
Rio Gallina	133	0	0
Rio Nutrias	45	10	5
Rio Cebolla	71	4	2
Canjilon Creek	238	1	0
Tierra Amarilla	124	14	12
Rio Brazos	320	66	7
Rutherford/Plaza Blanca	93	15	5
Canones Creek	65	14	2
Chama Village	142	26	9
TOTALS	1231	150	42
Total Acres	18,869		1,657
			4,815

RIO CHAMA COUNSEL OF RECORD

May 1, 2006

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**RIO CHAMA STREAM SYSTEM
Status Conference – Order #8214**

Monday, May 8, 2006

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Please Print

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